



March 3, 2005

ELECTRONICALLY FILED

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***Ex Parte* Notice**

Re: Communications Assistance for Law Enforcement Act and
Broadband Access and Services – ET Docket No. 04-295.

Dear Ms. Dortch:

On March 2, 2005, the undersigned and Susan Gately, of Economics & Technology, Inc., met with Monica Desai and Jennifer McKee of the Pricing Policy Division of the Wireline Competition Bureau on behalf of the Ad Hoc Telecommunications Users Committee.

The parties discussed the matters described in greater detail in the handout attached to this letter. The parties also discussed the importance of specifying a cost-causative rate structure should the Commission impose an end user charge for the recovery of CALEA compliance costs.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter and attachment are being filed with the Office of the Secretary.

Sincerely,

A handwritten signature in blue ink that reads 'Colleen Boothby'.

Colleen Boothby

Counsel for
Ad Hoc Telecommunications Users
Committee

Attachment

CALEA Cost Recovery: End user issues

1. Accommodating new rate elements in a post-*CALLS* world
2. No justification for treating CALEA costs any differently from other costs of doing business
3. Overearnings by regulated companies are more than adequate to fund CALEA compliance
4. Isolating CALEA compliance costs in a reasonable fashion is impossible
 - a. Unscrambling the omelet
 - CALEA has been in place for ten years
 - Carriers have been obligated to purchase compliant equipment, facilities, and services for the past ten years
 - Surveillance capabilities must be “baked in” at the design, manufacturing, deployment stage for equipment and networks
 - No evidentiary record of tasks performed and expenses incurred for compliance and no other purpose
 - CALEA compliance is part of general network requirements
 - Separation of CALEA compliance costs from other network upgrades would be arbitrary
 - b. Inadequate data
 - FCC lacks data needed to police allocations
 - Limited ARMIS reporting detail
 - No data for unregulated networks
 - c. Carrier incentives and track record for inflating charges and misallocating costs
 - Regulated v. non-regulated; competitive v. non-competitive
 - The LNP experience

5. Mandatory FCC charge

- Eliminates competitive pressure on carriers to control compliance costs and comply efficiently
- De-regulated service providers don't need an FCC mandate to add a rate element or raise prices

6. Service-specific compliance costs should be recovered on a service-specific basis

- Universal end user charge sends wrong signals to the market re costs of particular technologies
- No end user charges or any other price increase for regulated services absent showing that carrier would be underearning without a rate adjustment, *e.g.*, price caps low-end adjustments